

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

RICHARD BANKHEAD,)	
)	
Plaintiff,)	
)	CIVIL ACTION NUMBER:
vs.)	3:07-CV-00208
)	
AMERICAN SUZUKI MOTOR)	
CORPORATION)	
)	
Defendant.)	

MOTION TO REMAND TO STATE COURT

COMES NOW, the Plaintiff, Richard Bankhead, and hereby respectfully requests this Honorable Court to remand the above-styled case from the United States District Court for the Middle District of Alabama to the Alabama Circuit Court for Russell County. In support of this motion, the Plaintiff submits the following:

I. NARRATIVE STATEMENT OF FACTS

1. On or about August 2, 2006, Plaintiff Richard E. Bankhead alleges that he suffered an injury as a result of Defendant, American Suzuki Motor Corporation's Negligence, Wantonness and Breach of Warranty. Additionally, Plaintiff alleges damages under AEMLD. Plaintiff suffered these injuries while traveling home from work in Columbus, Georgia. Plaintiff sustained said injuries in Russell County, Alabama. Plaintiff brought suit in the Circuit Court of Russell County, Alabama.

2. Plaintiff Richard E. Bankhead is domiciled in Smiths, Alabama. Smiths, Alabama is unique in that the community covers both Lee County, Alabama and Russell County, Alabama. Plaintiff is domiciled within the Lee County section of the community.

3. Subsequently, Plaintiff sought treatment for his injuries. Plaintiff's medical bills total approximately \$2,000.00. Plaintiff's insurance has covered most if not all of his medical bills. Plaintiff's counsel has not been placed on notice of any subrogation or liens as a result of treatment.

4. This action was removed by the Defendant pursuant to 28 U.S.C. § 1332 alleging diversity of citizenship and amount in controversy.

5. Plaintiff did not allege in his initial complaint as to amount of damages that he sought as a result of the injury.

II. LAW

The Amount of Controversy Does Not Exceed \$75,000.00.

6. Plaintiff is not seeking more than an amount in excess of \$75,000.00, exclusive of interests and costs, which is the required amount in controversy.

7. Plaintiff has forwarded Defendant a demand wherein he seeks less than the requisite amount in controversy. (See Attached Letter)

8. In addition to diversity-of-citizenship, § 1332 requires that the amount in controversy exceed \$75,000.00. Where the plaintiff does not specifically allege an amount in controversy or the total amount in damages demanded, the removing must prove the amount in controversy by a preponderance of the evidence. Leonard v. Enterprise Rent A Car, 279 F. 3d 967, 972 (11th Cir. 2002).

WHEREFORE, PREMISES CONSIDERED, the considerations in the cases presented indicate that the Motion to Remand should be granted.

Respectfully Submitted,

/s Stewart S. Wilbanks

Stewart S. Wilbanks

DILLARD AND ASSOCIATES, L.L.C

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ASB-3234-W80W

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**CIVIL ACTION NUMBER:
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CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2007, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: John Dickson Mayo, Esq. Lightfoot, Franklin & White, L.L.C, 400 20th Street N., Birmingham, AL 35203, Zachary T. Collins, Esq., 207 Montgomery Street, Ste. 213, Montgomery, AL 36104; and hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: NONE.

Respectfully Submitted,

/s Stewart S. Wilbanks
Stewart S. Wilbanks
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November 27, 2007

Mr. John D. Mayo
Lightfoot, Franklin & White
The Clark Building
400 20th Street North
Birmingham, AL 35203

RE: Richard Bankhead v. American Suzuki Motor Corporation

Dear John:

Since you have not responded to our previous demand, please be advised that Mr. Bankhead has authorized me to forward a lower demand. As Mr. Bankhead's medical bills total approximately \$2,500.00, please accept \$70,000.00 in full and final settlement of his tort claims against your client.

Thank you in advance for your attention to this matter. Please contact me with any questions or comments.

Sincerely,

/s Stewart S. Wilbanks

Stewart S. Wilbanks

/ssw
cc: Zachary T. Collins